



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

LNO/160536

PRELIMINARY RECITALS

Pursuant to a petition filed September 06, 2014, under Wis. Admin. Code § DCF 201.07(1)(e), to review a decision by the Racine County Department of Human Services regarding an overpayment of AFDC benefits, a hearing was held on October 2, 2014, at Racine, Wisconsin.

The issue for determination is whether the Public Assistance Collections Unit (PACU) has correctly instituted a warrant.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

Department of Children and Families
201 East Washington Avenue
Madison, Wisconsin 53703

By: Dean Landvatter, Fraud Coordinator
Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. On an unspecified date, the Racine County Human Service Department (Racine County) issued a Notice of AFDC Overpayment to the Petitioner, indicating that she had been overpaid \$5,870.00 in benefits for the period of September 1990 through October 1992. (Exhibit 3, attachment A)

3. In 1996, the Petitioner was convicted of committing public assistance fraud in November 1990. (Exhibit 3, attachment C)
4. The Petitioner was incarcerated intermittently between 1996 and 2011. (Exhibit 2; Exhibit 3, attachment C)
5. On January 8, 1997, Racine County issued a repayment agreement to the Petitioner for the \$5,870.00 overpayment. (Exhibit 3, attachment D)
6. On May 3, 2005, Racine County issued a repayment agreement to the Petitioner for a \$5,797 overpayment that occurred between September 1, 1990 and December 31, 1992 (claim number [REDACTED] 8) and for a \$226.00 overpayment that occurred between September 7, 1990 and March 31, 1991 (claim number [REDACTED]). (Exhibit 3, attachment E)
7. On October 3, 2010, the Public Assistance Collections Unit (PACU) sent the Petitioner a Notice of Warrant Docketed, advising the Petitioner that it had placed a lien upon all her real and personal property. (Exhibit 3, attachment F)
8. On April 14, 2011, Racine County sent the Petitioner a notice that it had applied a \$1081 payment toward her debt. (Exhibit 3, attachment G)
9. On March 15, 2012, Racine County sent the Petitioner a notice indicating that it has applied a \$1194.00 payment toward her debt. (Exhibit 3, attachment H)
10. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on September 5, 2014. (Exhibit 1)

DISCUSSION

Under Wis. Stat., §49.195(3m), if a person fails to repay a public benefits overpayment, the Department may issue a warrant with the county clerk of court that will impose a lien on property owned by the debtor. The Wisconsin Administrative Code, §DCF 101.23(9) allows the Department to issue such a warrant if repayment of an AFDC debt is delinquent. The person may appeal the warrant to the Division of Hearings and Appeals, but the only issues that the administrative law judge may review are whether the debt is repaid in full or whether there is mistaken identity. Wis. Adm. Code, §DCF 101.23(9)(b)3.

The Petitioner does not dispute the fact that she was overpaid the AFDC benefits; she does not dispute the amount of the payments that she made toward the debt, and there is no dispute that there is still a balance due on the AFDC overpayment. I must conclude, then, that the Public Assistance Collections Unit had authority to issue the warrant and correctly did so.

I note that the Petitioner filed this appeal because she is paying the debt through tax intercepts and she claims that this is causing a hardship for her. The Petitioner indicated that she was hoping to negotiate a settlement of the overpayment.

Administrative Law Judges do not have the authority to engage in such negotiations. The Petitioner must contact a supervisor at the Public Assistance Collections Unit (800) 943-9499 or DWSPACU@Wisconsin.gov if she wishes to work out a more reasonable payment plan. Under Wis. Stats. Sec. 49.195(3m)(h), "If the department arranges a payment schedule with the debtor and the debtor complies with the payment schedule, the department may issue a notice of withdrawal of the warrant to the clerk of circuit court for the county in which the warrant is filed..."

CONCLUSIONS OF LAW

PACU is authorized to issue the warrant in this case because petitioner has an outstanding AFDC debt and she is the correct person who owes the money.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Children and Families. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 201 East Washington Avenue, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 1st day of December, 2014.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on December 1, 2014.

Racine County Department of Human Services
Public Assistance Collection Unit